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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,962	01/16/2004	Tiandong Jia	4316/045	6521
22440	7590	06/07/2004	EXAMINER	
GOTTLIEB RACKMAN & REISMAN PC 270 MADISON AVENUE 8TH FLOOR NEW YORK, NY 100160601			SWIATEK, ROBERT P	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 06/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/758,962	JIA ET AL.
	Examiner	Art Unit
	Robert P. Swiatek	3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 16 January 2004.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-21 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-12, 14-16 and 18-21 is/are rejected.  
 7) Claim(s) 13 and 17 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 15 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 1-16-04; 2-9-04.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Sherrill (US 5,673,653: Ref. 5 on Information Disclosure Statement filed 16 Jan. 2004). The Sherrill patent discloses a method of making animal chew toys comprising the steps of providing cleaned rawhide (column 5, lines 24-26, of Sherrill), cutting the rawhide into rectangles (column 5, line 6), infusing the rawhide with a substance that would impart a flavor and color (color would be altered by the liming—column 5, line 25—while the solution of hydrogen peroxide and chlorine—column 5, line 28—would affect the flavor), rolling the rectangles into cylinders (column 5, lines 51-53), and drying the cylinders (column 5, lines 57-59).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherrill in view of Lindgren (US 5,965,182). The Sherrill chew toy lacks a plurality of arcuate “windows.” It would have been obvious to one skilled in the art to provide the rawhide rectangles of Sherrill

with a plurality of holes, in view of the teaching of Lindgren that treats then can be placed in the holes or slits to entice an animal to bite the toy (see element 11 and Fig. 2C of Lindgren).

Claims 6-10, 14, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherrill in view of Dokken (US 5,706,762). The Sherrill chew toy lacks “strings”; however, it would have been obvious to one skilled in the art to provide it with such strings, in view of the teaching of Dokken that such appendages give the toy a more lifelike appearance (see element 16 of Dokken). With regard to claim 10, it would have been obvious to one skilled in the art to cut the rectangles of Sherrill after they had been infused with the solution, if one desired to further refine their shapes, say, to make them smaller.

Claims 11, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherrill in view of Dokken as applied to claim 10 above, and further in view of Lindgren. It would have been obvious to provide the toy of the combination Sherrill as modified by Dokken with a plurality of holes, in view of the teaching of Lindgren that treats then can be placed in the holes or slits to entice an animal to bite the toy.

Claims 16, 19, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Fisher (US 4,535,725). In Figure 3 of Fisher, the hairs extending longitudinally outwardly from the right and left edges of the toy are considered to constitute strips. As to claim 20, that portion of the hair of the Fisher toy intermediate the ends is considered to constitute a “coating” imparting a distinctive color to the toy.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher in view of Lindgren. The body of the Fisher toy lacks cuts forming crescent-shaped windows; however, it would have been obvious to one skilled in the art to provide the toy of Fisher with a plurality of

holes, in view of the teaching of Lindgren that treats then can be placed in the holes or slits to further entice an animal to bite the toy.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over, Fisher. The precise dimensional ranges of the Fisher toy, while not disclosed, would have been obvious to one skilled in the art wishing to enable it to be readily enjoyed by a range of differently-sized dogs.

Claims 3, 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. In claim 3, line 2, "said internal holes" lacks a prior antecedent basis; in claim 9, line 1, "said strips" lacks a prior antecedent basis.

In claim 16, line 4, "stripes" is a misspelling should be changed to -strips-.

Claims 13, 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The drawings are objected to because in Figure 3, reference numeral 16 should be changed to -14-. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Applicants should note that foreign documents nos. 1, 2 on the Information Disclosure Statement filed 16 January 2004 have not been checked inasmuch as copies were not provided; accordingly, if copies of these references are supplied, they will be considered.

The references to Beck (US 3,107,651) and Kirch (US 2003/0106500 A1) have been cited to provide additional examples of animal chew toys.

RPS: 1703/308-2700  
24 May 2004

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ART UNIT 3643